

MV 99-1

Tax Type: MOTOR VEHICLE USE TAX

Issue: Private Vehicle Use Tax - Value Exceeds \$15,000

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS

THE DEPARTMENT OF REVENUE)	
OF THE STATE OF ILLINOIS)	
)	Docket No.
v.)	Acct. #
)	NTL #
TAXPAYER)	
Taxpayer)	

RECOMMENDATION FOR DISPOSITION

Appearances: Jim Day, Special Assistant Attorney General, for the Department of Revenue of the State of Illinois; Mr. TAXPAYER appeared *pro se*.

Synopsis:

On October 24, 1997, TAXPAYER ("taxpayer") purchased an automobile and accessories from a seller in Michigan. The taxpayer filed a RUT-50 showing the purchase price as less than \$15,000. The Department of Revenue ("Department") added the cost of the accessories to the cost of the automobile and increased the Use Tax due to reflect a purchase price of greater than \$15,000. The taxpayer filed a timely protest arguing that the cost of the accessories should not be added to the cost of the automobile. This hearing was conducted before another Administrative Law Judge. After reviewing the record, it is recommended that this matter be resolved in favor of the Department.

FINDINGS OF FACT:

1. On October 24, 1997, the taxpayer traveled to Clarkston, Michigan, to purchase an automobile from SELLER (“SELLER”). He took with him a cashier’s check for \$18,000.00. (Tr. p. 8).
2. On October 24, 1997, the taxpayer purchased a 1989 Chevrolet convertible, Vehicle Identification Number XXXXX (“Corvette”), from SELLER, for \$14,500.00. (St. Ex. # 1).
3. On October 24, 1997, the taxpayer purchased a fiberglass hardtop with fasteners (“hardtop”) from SELLER for \$1,500.00. (St. Ex. # 1).
4. On October 24, 1997, the taxpayer purchased two new aluminum wheels from SELLER for \$1,500.00. (St. Ex. #1).
5. On October 24, 1997, the taxpayer purchased a storage rack, rack cover, car cover and documentation from SELLER for \$500.00. (St. Ex. # 1).
6. At the time of the taxpayer’s purchase on October 24, 1997, the Corvette was capable of being driven without the hardtop. (Tr. p. 9).
7. The hardtop was not installed on the Corvette at the time the taxpayer purchased it from SELLER. (Tr. p. 22).
8. The aluminum wheels were installed on the Corvette at the time the taxpayer purchased it from SELLER. (St. Ex. # 3,4).
8. On November 7, 1997, the taxpayer filed a RUT-50 Vehicle Use Tax Return with the Department reporting a purchase price for the Corvette of under \$15,000.00 and a tax liability of \$65.00. The return was accompanied by payment of \$65.00. (St. Ex. # 2).
9. On March 6, 1998, the Department issued a Notice of Tax Liability showing an additional liability of \$685.00 plus interest. This additional liability resulted from the

Department adding the cost of the hardtop, aluminum wheels and other miscellaneous items to the purchase price of the Corvette, making the selling price greater than \$15,000.

(St. Ex. # 2).

CONCLUSIONS OF LAW:

The State of Illinois imposes a tax on the privilege of using a motor vehicle within the state. 625 ILCS 5/3-1001 (1996 State Bar Edition, 1997 Supp.). A vehicle is defined as:

Every device, in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power, devices used exclusively upon stationary rails or tracks and snowmobiles...

625 ILCS 5/1-217 (1996 State Bar Edition). Motor vehicles are a subset of vehicles defined by the method of propulsion they employ. 625 ILCS 5/1-146 (1996 State Bar Edition). The amount of Use Tax is based on the selling price of the vehicle, defined as:

The consideration received for a motor vehicle subject to the tax imposed by Section 3-1001 valued in money, whether received in money or otherwise, including cash, credits, service or property. In the case of gifts or transfers without reasonable consideration, "selling price" shall be deemed to be the fair market value as determined by the Department of Revenue.

625 ILCS 5/1-186.5 (1996 State Bar Edition, 1997 Supp.). The amount of tax due on an eight-year old vehicle with a selling price of less than \$15,000 is \$65.00. 625 ILCS 5/3-1001 (1996 State Bar Edition, 1997 Supp.). The tax due for any vehicle that sells for between \$15,000 and \$19,999 is \$750.00. Id.

The taxpayer purchased a vehicle for under \$15,000, but on the same day and from the same seller bought accessories for the vehicle that put the total amount paid to the seller over \$15,000. The Department argues that the cost of the accessories should be added to the cost of the vehicle in order to arrive at the selling price. This is based on the theory that the accessories are designed for use with the Corvette, that they were purchased in the same transaction as the

Corvette with the intent of adding them to the vehicle, and that they increase the value of the vehicle. In support of this argument, the Department relies most heavily on the Notice of Tax Liability issued against the taxpayer (St. Ex. # 2) and the first Bill of Sale issued by the seller (St. Ex. # 1).

The Notice of Tax Liability issued by the Department is *prima facie* evidence of the correct amount of tax due. 625 ILCS 5/3-1003 incorporating 35 ILCS 105/12 incorporating 35 ILCS 120/4 (1996 State Bar Edition, 1997 Supp.). However, the Department's *prima facie* case can be overcome upon the taxpayer's production of competent evidence to the contrary. Goldfarb v. Department of Revenue, 411 Ill. 573, 580 (1952). Once the *prima facie* case is overcome, the burden is upon the Department to prove by a preponderance of the evidence that the taxpayer is subject to an additional amount of tax. Id.

The Bill of Sale entered into evidence by the Department shows the selling price of the car listed separately from the price of the other items. St. Ex. # 1. This is competent evidence that the Corvette was intended as a separate purchase from the other items and is sufficient to overcome the Department's *prima facie* case that more tax is owed. It then falls upon the Department to prove by a preponderance of the evidence that the price of the accessories should be added to the price listed for the Corvette. The mere fact that an accessory was purchased at the same time or from the same seller as a vehicle does not automatically establish that the prices should be combined. The Vehicle Use Tax is applied to the vehicle itself, and to be included in the taxable selling price, an item must be part of the vehicle. 625 ILCS 5/3-1001 (1996 State Bar Edition, 1997 Supp.). Selling price is similarly defined by the vehicle, not the transaction in which the vehicle changes hands. 625 ILCS 5/1-186.5 (1996 State Bar Edition, 1997 Supp.). If the vehicle being sold is complete without the accessories, and there is no showing that the

accessories have ever been attached to the vehicle, they cannot properly be considered as part of the vehicle and should not be included in the selling price.

It is irrelevant to the determination of whether the accessories are properly considered part of the vehicle that the accessories are listed on the same receipt or are paid for with the same check as the vehicle itself. The amount due on a single receipt that listed a vehicle and six spare tires would not be considered the selling price of the vehicle. The Department must show that any accessories purchased with a vehicle are in some way part of the vehicle, not merely capable of being added to it.

It is possible for the Department to establish that the price of separate accessories should be added to the price of a vehicle. If an accessory was at one time attached to a vehicle, but was removed and sold separately to the same buyer to lower the price of the vehicle, it would still count towards the selling price of the vehicle. Also, if the seller lowered the price of a vehicle and shifted the difference to a separate accessory to avoid the higher tax rate, then the appropriate portion of the selling price of the accessory should be added back to the selling price of the vehicle. These examples deal with attempts to lower the selling price of a vehicle by changing the nature (or misrepresenting the nature) of the vehicle. An accessory that has never been part of a vehicle and that is sold for a fair price should not be added to the selling price of the vehicle.

In the present case, the Department has offered no evidence that the hard top, storage rack, rack cover or car cover purchased by the taxpayer were ever part of the Corvette or that the selling prices were manipulated to reduce the price of the car. Because these accessories are all listed as separate items on the bills of sale and the Department has the burden of proving that they should be treated otherwise, the price of these items should not be added to the price of the

Corvette. However, two of the three bills of sale created by SELLER and entered into evidence by the Department indicate that the aluminum wheels were installed at the time of purchase. St. Ex. # 3,4. The third bill of sale does not address this. As the product of an impartial party, the bills of sale are more credible than the taxpayer's unsupported testimony that he had the wheels installed after the purchase. Tr. p. 22. The Department has demonstrated by a preponderance of the evidence that the aluminum wheels were installed at the time of purchase and should be added to the selling price of the car. The \$1,500.00 price of the tires and the \$14,500.00 price of the Corvette together put the selling price of the vehicle over \$15,000.00 but less than \$19,999.00. The Department's determination that the amount of tax due (before crediting the taxpayer's payment) is \$750.00 is correct. 625 ILCS 5/3-1001 (1996 State Bar Edition, 1997 Supp.).

For the foregoing reasons, it is recommended that this matter be resolved in favor of the Department and that the Notice of Tax Liability issued by the Department on March 6, 1998 be upheld.

Chris Higgerson
Administrative Law Judge

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